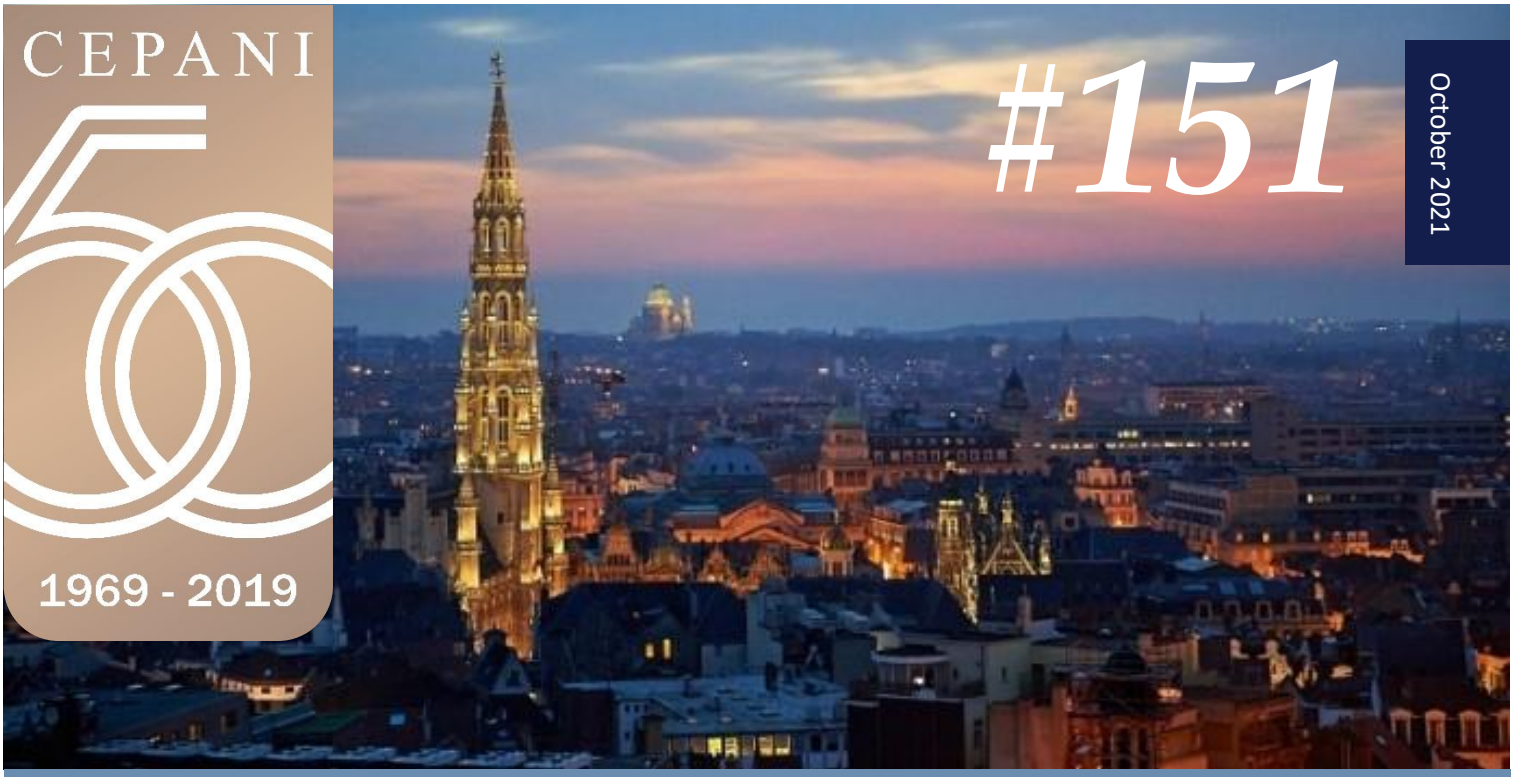
CEPANI

1969 - 2019



#151

October 2021

Editors in chief: Guillaume Croisant, François Cuvelier, Iuliana Iancu and Sander Van Loock

AGENDA

18 November 2021	**Journée du Juriste d'entreprise**
25 November 2021	**CEPANI Annual Colloquium: "What's on the Horizon?"**
15 December 2021	**CEPANI40-Fieldfisher Seminar: "Arbitration on Post M&A Disputes"**
6-10 March 2022	**The royal economic mission to the UK**
22 April 2022	**SAVE THE DATE: Joint CEPANI-NAI Colloquium**
3-4 June 2022	**CCC Global Conference**

SERIES: Stories from a Young Arbitrator

REPORTS

NEWS FROM OUR PARTNERS

SERIES - STORIES FROM A YOUNG ARBITRATOR

With the April 2021 edition of the Newsletter, the Editors introduced a new series of short, topical posts written by young arbitrators. The authors will be sharing practical tips and insights from their experience as arbitrators, from dealing with defaulting parties or with non-represented parties to managing multi-language proceedings, from addressing falsified evidence and the interplay between the burden of proof and the standard of proof, to deciding jurisdictional challenges and evaluating the credibility of witnesses.

We hope you will enjoy this new series and, please, do not hesitate to reach out should you wish to participate.

EPISODE 5 – ETHOS IN THE POST-TRUTH ERA

Alexandre Hublet
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Who remembers this child of two Jamaican immigrants, born in Harlem and educated in a public school in the Bronx? Who remembers that he became a four-star general in the US army, ending up as Chairman of the Joint Chiefs of Staff? Who remembers that he was the first African-American national security advisor and US Secretary of State? Who remembers the doctrine he implemented, and which bears his name today, that limited the propensity of the US to go to war and aimed at avoiding another Vietnam? Who remembers that, in a warmonger administration, he was a moderate, which led him to resign in 2005?

Despite all this, Colin Powell is most remembered for his 2003 address to the United Nations Security Council, during which he (unsuccessfully) tried to convince the world that Iraq remained in control of weapons of mass destruction. He declared, "*every statement I make today is backed up by sources, solid sources. These are not assertions. What we are giving you are facts and conclusions based on solid intelligence*". In a 2005 interview for ABC, Colin Powell recognised that these statements, which were later proven to be false, tarnished his reputation, defining it as a "*blot*" on his career. A "*blot*" that obscures all the rest. Ironically, as the Guardian summed up, he "*will be most remembered for the act he most regretted*".

The recent death of Colin Powell, former US Secretary of State, made me want to reflect on the importance of one's credibility, especially in the arbitration community, and the fragility of such credibility, especially in these years where facts have become less relevant than beliefs.

The theory of rhetoric, as identified by Aristotle 2,500 years ago, may help us understand the issue at stake: the art of persuasion is based on three pillars: (i) *ethos*, the authority and credibility of the speaker, (ii) *pathos*, appealing to the feelings and emotions of the audience and (iii) *logos*, the logic (or rationality) of the speech.

In litigation, and arbitration is no exception to this, effective lawyers must persuade the adjudicators that the position they represent is right. These three pillars apply at every stage of a proceeding. Arbitrators, who are appointed via their peers, must pay attention to their *ethos*. Legal writing mainly focuses on *logos*, analysing legal reasoning and demonstrating the soundness of an interpretation of the law. Let us focus on *ethos* for once.

Such focus is even more important in today's world. Returning to Sec. Powell's speech to the UN, besides the personal harm to Sec. Powell's reputation, this speech may also have been part of a broader change: to decrease the value of the speech of senior officials. In Aristotle's words, the position held, as well as the credentials and experience of the speaker, are no longer sufficient to generate confidence. Recent years have increased this phenomenon, making some intellectuals assert that we have entered into post-truth politics, post-truth being defined by the Oxford dictionary (awarding this adjective the 2016 'word of the year') as "*relating to circumstances in which people respond more to feelings and beliefs than to facts*". Recent examples are Trump's false statements about electoral fraud in the 2020 US election or discussions on social media about the COVID-19 pandemic, where the opinions of physicians and epidemiologists were challenged, or even treated suspiciously, while attention and credence were given to unsubstantiated beliefs.

Some mainstream opinions, such as the French version of the Wikipedia article on "post-truth politics" refer to Sec. Powell's UN speech as one of the origins of the broad movement of lack of confidence in the media and the evolutionary process that has led to post-truth politics. Even if a (direct) link between this 2003 speech and the radical change of the political debate in recent years is impossible to prove, and the causes of post-truth politics are multiple, this speech dramatically affected US credibility and remains an example of lies by senior officials, invoked as evidence for "alternative" theories.

One act can thus affect one's career, and have a large butterfly effect.

The importance of *ethos* should however not be a prison. When I was drafting my first award, having been appointed as sole arbitrator, besides all the questions on what I would decide for the outcome of the case or the legal reasoning underlying my decision, fears crossed my mind that I had to avoid such-and-such line of reasoning, or needed to add another paragraph to the award, to avoid hurting the party (and its lawyer) whose argument I was rejecting. Above all was the fear that the award could be annulled, a terrible blot on the reputation of a (young) arbitrator.

This leads me to two reflections.

First, as lawyers, we have a duty to investigate the statements we make to an arbitral tribunal. It is a well-known saying that the lawyer is the first judge of their client's case. As lawyers, we should only present arguments we believe to be true, such belief being based on our assessment of the facts of the case at hand and of the applicable law. Of course, our role is to represent the clients and defend their rights in the best way. We can argue new legal theories or propose to overturn case law following a new reasoning. But our responsibility is to find a balance between our loyalty to the client and our duty to the arbitral tribunal. In practice, this might sometimes be difficult, as knowledge of the facts may evolve throughout the arbitration proceeding, for example through document production, expert reports or witness statements. Sometimes there is not even written evidence, just the word of one party against the other. Finding this balance is essential, as presenting a frivolous case can severely harm the reputation of the lawyer involved. One must sometimes refuse to make certain arguments, no matter how difficult it might be to say "no" to a client. As arbitrators, we should ensure that we have properly addressed all the arguments raised, after having paid due consideration to the evidence filed. We should not be afraid to reject arguments we consider unconvincing and, especially during the proceedings, refuse requests that would not be helpful to the outcome of the case. The so-called due process paranoia, making arbitrators accept procedural requests to avoid a possible future annulment, may have its roots in the excessive importance given by arbitrators to the potential harm that an annulment of their award may cause to their *ethos*, compared to a slower arbitration proceeding.

Second, one should not judge others too harshly. We all make mistakes, and the underlying reasons for an action are not always obvious. The annulment of an award is certainly a difficult decision for the arbitrators involved, but the reasons for an annulment can be diverse. And it does not erase the legal skills of the arbitrators whose decision has been annulled or their previous accomplishments. The same applies to the lawyers involved. What, at the end of an arbitration proceeding, may appear to be a frivolous case, may have had solid roots at the outset. The lawyer involved may have faced an ethical dilemma between the loyalty due to their client and stepping down from the case, preferring the former for reasons unknown to someone external to the attorney-client relationship.

In his 2005 ABC interview, Colin Powell explained the importance for him of loyalty and the fact that, even if he was "reluctant" about the war, his loyalty to the President who appointed him made him support the war effort. We can easily see the moral dilemma in this case. For a soldier, is it surprising to prefer loyalty? How difficult must it be to resign from one of the highest positions in the US Government, especially when you are the first person from a discriminated minority to hold such office? We can believe that Sec. Powell's decision was not the one we would have taken, but not one of us was in his shoes then. We can at least recognize he was in a very difficult position and honour him for the many other achievements of his career. In our careers, we all have choices to make, each one coming with consequences we dislike, but cannot avoid. The external world will only see the conclusion of what might have been a months-long dilemma. Before drawing a definitive conclusion about someone, we should reflect on why this person acted this way and try to understand the dilemma they faced.

To conclude, in one sentence, we must be firm with ourselves when presenting arguments or drafting awards, ensuring solid factual and legal grounds for statements we make, and tolerant vis-à-vis others, as we cannot know the underlying thought processes behind other people's actions. With that in mind, thinking about one's own *ethos* in the context of arbitration proceedings should not be a fear of doing wrong, but a commitment to doing better.

REPORTS

ICC BELGIUM WEBINAR: "CYBERSECURITY AND DATA PROTECTION IN INTERNATIONAL ARBITRATION"

21 OCTOBER 2021

François Cuvelier
Associate
Loyens & Loeff, Brussels

On 21 October 2021, ICC BELGIUM hosted a webinar on Cybersecurity and Data protection in international arbitration. The aim of this multidisciplinary webinar was to discuss the importance for arbitration practitioners to properly audit the IT tools they are using and to present a couple practical tips from both a legal and technical perspective. The panel included Mr. Olivier van der Haegen (Partner, Loyens & Loeff), Mrs. Dodo Chochitaichvili (Partner, Ariga), Mrs. Stéphanie De Smedt (Counsel, Loyens & Loeff) and Mrs. Lisa de Wilde (Incident Response Coordinator, Northwave).

As Mr. **Jean-Pierre Fierens**, Member of the Belgium Nomination Commission at the ICC, highlighted in an introduction to the webinar, the use of information technology in international arbitration, whether it is for the exchange of documents and exhibits or to organize virtual hearings, has become unavoidable. This is especially true since the outbreak of the Covid-19 pandemic, because of which more proceedings with high value and business-sensitive information are being conducted wholly online.

Mr. **Olivier van der Haegen** opened the panel by presenting the recent initiatives taken by arbitration institutions in the wake of the pandemic to both promote the use of IT tools in arbitration and prevent the cyber-risks that are inherent to their use. As he noted, a first response of the arbitration community was indeed to issue guidance and practical notes in order to mitigate the effects of the pandemic. Notably, several institutions amended their rules of procedure to allow for/confirm the possibility for an arbitral tribunal to compel that hearings be held remotely. A second response from the arbitration community consisted in limiting the risks that are inherent to the organization of virtual hearings and the increased use of IT technology, either through the issuance of guidance notes, the upgrade of the security offered by their digital infrastructures or the adaptation of their rules of procedure. Reference was also made during Mr. van der Haegen's intervention to the Queen Mary University 2021 International Arbitration Survey which notably shows that while arbitration stakeholders are becoming more mindful of cybersecurity and data protection issues as well as the need to address them adequately, there remains nonetheless ample scope for more engagement.

Mrs. **Dodo Chochitaichvili** then explored the issue of civil liability resulting from cyberattacks in the context of arbitration proceedings. As she rightly highlighted at the outset, this is an area of the law which is still largely unexplored and likely to evolve rapidly as cyberattacks continue to grow in their sophistication and frequency. Building upon publicly reported cases of cyberattacks in arbitration, Mrs. Chochitaichvili discussed the potential sources of counsels and arbitrators' obligations to protect data/information and avoid intrusion into the arbitration process (professional conduct, data protection laws, terms of reference, contracts, etc.). Particularly, she posited that arbitrators are under a general duty (arguably taking the form of an *enhanced obligation of means*) to avoid intrusion into the arbitration process and to preserve its integrity: while arbitrators cannot guarantee that the information exchanged during the arbitral process will always remain safe from hackers, they must take the necessary and reasonable steps to mitigate the risks of cyberintrusion. Besides the standard of care against which the behaviour of arbitration stakeholders should be assessed in case of cyberattacks/data leaks, the speaker touched upon other topical issues such as the allocation of responsibility between the parties, the extent to which cyberattacks may constitute a valid case of *force majeure*, the resort to cyberinsurance or the scope of liability exemptions under the GDPR.

This last topic paved the way to Mrs. **Stéphanie De Smedt**'s intervention, which delved into data protection and privacy considerations in international arbitration. In the first part of her presentation, she emphasized that personally identifiable data should be carefully considered and protected by the parties to the arbitral process. This holds particularly true for arbitrators given that EEA-based arbitrators will generally be considered as (joint) data controllers under the GDPR. Arbitrators will thus automatically be subject to security related responsibilities that are incumbent to any data controller such as (i) the obligation to ensure appropriate security of personal data, (ii) the obligation to notify data breaches to the local DPA and/or data subjects as well as (iii) the obligation to contract with reliable (sub-)processors. In the second part of her presentation, Mrs. De Smedt surveyed several IT tools frequently used by arbitrators and counsels to hold virtual hearings (Zoom, WebEx, Microsoft Teams, etc.) or to exchange documents (DropBox, WeTransfer, Intralinks, etc.) from both a security and privacy point of view. She recommended that arbitration stakeholders do not engage with such service providers 'blindly' and be mindful of the way in which each of these platforms process the data which they are entrusted.

Finally, Mrs. **Lisa de Wilde** closed the webinar by providing attendees with practical tips and tricks as to how arbitration practitioners may be best equipped to address cybersecurity risks. Building upon her practice, in which she helps organisations to get back in business as quickly and securely as possible after security incidents, she explained how stakeholders could act cyber safe and minimize the risks of a security incident (such as phishing or ransomware attacks) in the conduct of arbitration proceedings.

Surely, this webinar left attendees with a greater understanding of the numerous (and novel) issues surrounding cybersecurity and data privacy in international arbitration. One notable takeaway is that it rests on the parties and the arbitral tribunal to address the relevance of cybersecurity in the case at hand, at the outset of the proceedings. They should particularly assess the likely relevance of cyberthreats as well as the resources and tools at their disposal minimise them and ensure the integrity of the proceedings on which they are about to embark. Solutions may notably reside in the use of password-protected submissions and encrypted communication tools. All in all, arbitration stakeholders can only be encouraged to give cyberthreats and data protection a sound consideration, especially by recognizing their respective role as part of shared collective responsibility is ensuring the integrity of the arbitration process.

For in-depth discussions on cybersecurity and data protection in arbitration, the reader is referred to the following publications: Managing Data Privacy and Cybersecurity Issues (GAR) and The Role of Arbitral Institutions in Cybersecurity and Data Protection in International Arbitration (Kluwer Arbitration Blog)

"DIVERSITY @ CEPANI: INTRODUCING THE DIVERSITY AND IBCLUSION WORKING GROUP21"

Esther Maes
Associate
Allen & Overy, Brussels

ENG (original)

Recently, the CEPANI Board of Directors took the initiative to create a working group to advise the Board on diversity matters, co-chaired by Sophie Goldman and Werner Eyskens. As announced on CEPANI's website, the working group aims to look at the state of affairs within CEPANI's different fields of activity, to analyse it in comparison with other organisations and, where appropriate, to formulate concrete proposals to improve diversity within CEPANI.

This initiative is certainly not an isolated one. Attention for diversity is on the rise in the arbitration world. Many other institutions have already created working groups dedicated to diversity and/or took specific steps to improve diversity within their organisation and arbitration panels. Most notable is the International Council for Commercial Arbitration (ICCA), which has already launched several initiatives. Last year, the ICCA adopted a formal Diversity and Inclusion Policy, a Diversity and Inclusion Implementation Plan, and an updated Non-Discrimination and Harassment Protocol. In addition, ICCA's Cross-Institutional Task Force on Gender Diversity in Arbitral Appointments and Proceedings produced an extensive report outlining recent statistics on the appointment of female arbitrators and setting out best practices concerning the promotion of gender diversity in arbitration.

In its annual reports, CEPANI itself already publishes statistics on age diversity and gender diversity in the composition of arbitration panels. The latest annual report indicates that in 2020 15% of the appointments to arbitration panels were women and that 27% of appointed arbitrators were younger than 40.

CEPANI's recently established study group aims to address diversity in a broad manner, not limiting itself to a understanding of the word 'diversity' as referring only to gender diversity. The working group therefore chose to name itself "Diversity and Inclusion Working Group". On the one hand, this means that the study group will focus on different kinds of diversity, including but certainly not limited to gender and age. On the other hand, this entails that the study group will address diversity and inclusion not only in relation to appointments to arbitration panels but also within CEPANI's organisation and activities.

Further updates and communication from CEPANI on the activities of the study group are expected to follow soon. If you have any comments or concerns regarding diversity and inclusion in the meantime, feel free to reach out to the chairs of the committee, Mr. Werner Eyskens (werner.eyskens@allenovery.com) and Mrs. Sophie Goldman (sophie.goldman@tglaw.be).

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FR

Récemment, le Conseil d'administration du CEPANI a pris l'initiative de créer un groupe de travail en charge des politiques de diversité et d'inclusion au sein du CEPANI, coprésidé par Sophie Goldman et Werner Eyskens. Comme précisé sur le site internet du CEPANI, ce groupe de travail se donne pour objectif de dresser un état des lieux de la diversité au sein des différents domaines d'activité du CEPANI, de l'analyser en comparaison avec d'autres organisations et de formuler des propositions concrètes pour améliorer la diversité au sein du CEPANI, si nécessaire.

Cette initiative n'est certainement pas un cas isolé. L'attention portée aux questions de diversité est en hausse dans le monde de l'arbitrage. De nombreuses autres institutions arbitrales ont déjà mis sur pied des groupes de travail dédiés aux questions de diversité et de représentation et/ou pris des mesures spécifiques en vue d'améliorer la diversité au sein de leur organisation et de leurs panels d'arbitres. L'exemple le plus éclairant est à trouver chez le *International Council for Commercial Arbitration* (*ICCA*), qui a déjà lancé plusieurs initiatives en la matière. L'année dernière, l'*ICCA* a ainsi adopté une Politique officielle de diversité et d'inclusion, un Plan de mise en œuvre des politiques de diversité et d'inclusion ainsi qu'un Protocole en matière de non-discrimination et de harcèlement. En outre, le groupe de travail interinstitutionnel de l'*ICCA* en matière de diversité des genres dans les nominations et les procédures arbitrales a publié un rapport détaillé qui présente des statistiques récentes et détaillées sur la nomination de femmes arbitres, tout en proposant une série de recommandations pratiques en vue de promouvoir la diversité de genre dans l'arbitrage.

Dans ses rapports annuels, le CEPANI publie déjà des statistiques relatives à la diversité d'âge et de genre dans la composition des tribunaux arbitraux. Le dernier rapport annuel indique ainsi qu'en 2020, 15 % des arbitres nommés par le CEPANI étaient des femmes et que 27 % des arbitres nommés avaient moins de 40 ans.

Le groupe de travail récemment mis sur pied par le CEPANI a pour objectif d'aborder la diversité dans sa conception la plus large possible, sans se limiter à une compréhension de la « diversité » comme faisant uniquement référence à la diversité des genres. C'est la raison pour laquelle le groupe de travail a décidé de se nommer « Diversité et Inclusion ». Cela signifie, d'une part, que les travaux du groupe se concentreront sur différents types de diversité, en ce compris, mais pas exclusivement, le sexe et l'âge et cela implique, d'autre part, que le groupe de travail abordera la diversité et l'inclusion non seulement en ce qui concerne les nominations d'arbitres, mais aussi au sein de l'organisation même et des activités du CEPANI.

Des communications du CEPANI sur les activités de ce groupe de travail devraient suivre prochainement. Tout commentaire ou remarque en matière de diversité et d'inclusion peut, dans l'intervalle, être communiqué aux présidents du groupe, Werner Eyskens (werner.eyskens@allenovery.com) et Sophie Goldman (sophie.goldman@tglaw.be).

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NL

De Raad van Bestuur van CEPANI heeft recent het initiatief genomen om een werkgroep op te richten die, onder het co-voorzitterschap van Sophie Goldman en Werner Eyskens, de Raad van Bestuur zal adviseren over diversiteit. Zoals aangekondigd op de website van CEPANI, heeft deze werkgroep als doel om de actuele diversiteit binnen de verschillende werkingsdomeinen van CEPANI in kaart te brengen, om deze te analyseren in vergelijking met andere organisaties, en om concrete voorstellen te formuleren om, waar gepast, de diversiteit binnen CEPANI te verbeteren.

Dit initiatief is geenszins een unicum. De aandacht voor diversiteit neemt immers toe in de hele arbitragewereld. Tal van andere instellingen hebben reeds werkgroepen in het leven geroepen die zich op diversiteit richten en/of ondernamen al specifieke stappen om de diversiteit binnen hun organisatie en arbitragepanels te verbeteren. Meest opvallend is daarbij de *International Council for Commercial Arbitration* (*ICCA*), die reeds verscheidene initiatieven heeft gelanceerd. Vorig jaar, heeft de *ICCA* immers een Formeel Diversiteits- en Inclusiebeleid, een Diversiteits- en Inclusie Implementatieplan en een bijgewerkt Non-Discriminatie en Intimidatie Protocol aangenomen. Daarnaast heeft de *Cross-Institutional Task Force on Gender Diversity in Arbitral Appointments and Proceeding* van de *ICCA* een uitgebreid rapport opgesteld dat een overzicht biedt van recente statistieken over de benoeming van vrouwelijke arbiters en enkele *best practices* uiteenzet om genderdiversiteit in arbitrage te bevorderen.

In haar jaarverslagen publiceert CEPANI zelf reeds statistieken over leeftijds- en genderdiversiteit bij de samenstelling van arbitragepanels. Zo blijkt uit het laatste jaarverslag dat in het jaar 2020, 15% van de benoemde arbiters vrouwen waren en dat 27% van de benoemde arbiters jonger was dan 40 jaar.

De werkgroep die CEPANI recent oprichtte, wil diversiteit vanuit een ruim perspectief benaderen en wil zich dan ook niet beperken tot “diversiteit” opgevat in de enge betekenis beperkt tot genderdiversiteit. Ze heeft er daarom ook voor gekozen zichzelf de naam “Werkgroep Diversiteit en Inclusie” te geven. Enerzijds betekent dit dat de werkgroep zich zal richten op verschillende soorten diversiteit, waaronder, maar zeker niet beperkt tot, die van geslacht en leeftijd. Anderzijds houdt dit in dat de werkgroep zich niet alleen zal bezighouden met diversiteit en inclusie bij benoemingen in arbitragepanels, maar ook binnen de organisatie en activiteiten van CEPANI.

Verdere updates en mededelingen van CEPANI over de activiteiten van de werkgroep worden binnenkort verwacht. Als u in de tussentijd opmerkingen of vragen heeft over diversiteit en inclusie, aarzel dan zeker niet om contact op te nemen met de voorzitters van de commissie, Werner Eyskens (werner.eyskens@allenovery.com) en Sophie Goldman (sophie.goldman@tglaw.be).

"ARBINBRIEF: A PRACTICAL VIDEO GUIDE TO HANDPICKED ISSUES IN ARBITRATION"

29 SEPTEMBER 2021

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ARBinBRIEF is a practical video guide on handpicked arbitration issues. ARBinBRIEF aims to provide a concise, yet very informative insight into arbitration-related topics to all members of the arbitration community. The ARBinBRIEF series is divided into seasons consisting of 10 episodes each. Each episode will be recorded during a 15-minute live conversation between two stellar arbitrators and will be made available on the ARBinBRIEF YouTube channel. The episodes will air every second Wednesday. Attendees of the live event will be able to participate in a (non-recorded) Q&A and networking session thereafter.

The kick-off

The kick off took place on 29 September 2021, with a panel titled "Trailblazers: Ambition Meets Extraordinary" featuring a group of extraordinary individuals who have opted for different paths in pursuing their careers and have sought to achieve a purpose that goes beyond themselves:

- Nadja Harraschain (Founder of breaking.through, Rechtsreferendarin);
- Amani Khalifa (Counsel at Freshfields Bruckhaus Deringer LLP, Member of the ERA Pledge Steering Committee);
- Madeline C. Kimei (Founder and CEO of iResolve, President of the Tanzania Institute of Arbitrators);
- Rekha Rangachari (Executive Director of the NYIAC, Co-founder and co-chair of R.E.A.L. – Racial Equality for Arbitration Lawyers initiative);
- Isabel Yishu Yang (Founder and CEO of ArbiLex).

Olga Hamama (Co-Founder and Partner of V29 Legal) moderated the panel.

Surround yourself with role models

When Nadja first entered the world of big law fresh out of law school, she noticed that there was a disparity between the number of men and women at the top. Many women would give up on the career of their dreams because they did not see enough role models at the top – someone they could learn from and go to for advice and guidance. That is when the idea for Nadja's initiative was born. breaking.through publishes portraits of such role models, providing their insights on career-related questions. Within just three years, the platform has become the biggest career platform for women in the field of law in Germany and Switzerland. Because of this success, the team has now grown to 30 members working on additional services offered by breaking.through – events and workshops targeted at developing soft skills as well as mentoring opportunities.

Dedicate yourself over time and apply yourself

Amani did not start off her career as a lawyer. Law was her "Plan B" while she pursued her passion as a professional tennis player. A lot of what she learned through tennis formed her into the successful lawyer she is today. Two aspects from those days as a tennis player have particularly influenced her career:

- the repetitive nature of training where you do not see the results right away and only years later looking back do you realize that you have the tools to achieve what you want if you chisel away at something long enough; and
- time management skills by learning how to organise her time as an athlete while at the same time continuing her schoolwork.

Amani has now found her way back to sports by acting as an arbitrator on the Basketball Arbitral Tribunal (BAT) and as an anti-corruption hearing officer of the Tennis Integrity Unit.

Fight for the things that you care about, but do it in a way that will lead others to join you

Rekha spoke about her experience with building something new – the New York International Arbitration Center. As a non-profit organization, NYIAC promotes and enhances the conduct of international arbitration in New York, offers educational programming, and operates arbitration hearing facilities. In 2021, Rekha co-founded the Racial Equality for Arbitration Lawyers (R.E.A.L.) initiative along with other prominent practitioners and diversity advocates. In her words, *"it is time to talk about race in the international arbitration community"*. By co-founding the R.E.A.L. initiative, Rekha started by simply building a community that would talk about racial issues in arbitration and would slowly build itself and spread the word around. The R.E.A.L. initiative has now grown to a network of committees and ambassadors promoting its goals around the globe. It also offers scholarships that can be used for a variety of things from courses and workshops to just event attendance – providing opportunities to professionals that would otherwise be beyond reach.

Remain resilient and adapt to change

Having started her career in-house working in banking and seeing the need to provide solutions for resolution of disputes, Madeline embraced the opportunity and set up one of the very first online dispute resolution platforms in Tanzania – iResolve. Madeline shared how working in banking exposed her to the rapid pace of technology and a world where regulation was always lagging behind technological progress. When setting up her own law firm, that gap between regulation and progress made her think about how she could add value to her clients – and that is when iResolve was born. Initially a case management solution, it has now developed into a platform that facilitates mediation, arbitration, and adjudication processes.

In her position as President, Madeline successfully developed the Tanzania Institute of Arbitrators and arbitration in Tanzania by working with the government and the parliament for the (now adopted) new Tanzanian arbitration law.

Have a beginner's mindset

Isabel came up with the idea for ArbiLex after observing how decisions were made at the outset of investor-State cases. These crucial decision-making moments typically revolve around risk assessment. Having a degree in both law and economics allowed Isabel to see that risk differently and spot a business opportunity.

According to Isabel, the structure of ISDS case law lends itself to probabilistic modelling. The idea was therefore to quantify the risks unique to the case in such a way that would be understood by financiers. ArbiLex therefore offers prediction services quantifying case risks using machine learning and game theory-inspired models. The venture has now grown further from its inception and offers arbitration finance in addition to the tech-enabled intelligence.

A combination of personal qualities, expertise, and ability to respond to the challenges and everchanging circumstances were just some of the qualities these extraordinary professionals share. As envisaged, the kick-off event captured the spirit of ARBinBRIEF – an attempt to challenge the status quo and develop a practical offering for the arbitration community while carefully listening and responding to the feedback of the users.

For all who missed the event, the recording is available on the ARBinBRIEF YouTube channel.

The kick-off was organized in collaboration with the Arbitration Pledge, Delos Dispute Resolution and Jus Mundi, and enjoyed the support of CEPANI40, YRAP, ERA Arbitration Pledge Young Practitioners Subcommittee, DIS40, OGEMID, YSIAC, #careersinarbitration, the Danish Institute of Arbitration and CEA40.

ARBinBRIEF has also already recorded the first two episodes of the series:

- Episode 1 featuring Wendy Miles and Jennifer Bryant on arbitrator appointments; and
- Episode 2 featuring Chiann Bao and Fatima Balfaqeeh on the first post-appointment steps an arbitrator usually takes.

Episode 3 on Case Management Conferences will be recorded before a live audience on 10 November 2021 and feature Preeti Bhagnani and Suzanne Rattray. You can register to attend the live recording here.

If you want to keep up to date on the upcoming ARBinBRIEF episode recordings, you can follow ARBinBRIEF on LinkedIn, subscribe to the ARBinBRIEF YouTube channel, or get in touch via email. The ARBinBRIEF team - Elizabeth Chan, Nata Ghibradze, Nadja Harraschain, Olga Hamama, Emily Hay, Iuliana Iancu, Dara Sahab, Olga Sendetska, Mrinalini Singh, Vanessa Zimmermann de Meireles – would be grateful for the support of our community and any feedback along the way.

NEWS FROM OUR PARTNERS

» **INSTITUUT VOOR BEDRIJFSJURISTEN / INSTITUT DES JURISTES D'ENTREPRISE**

Artificial Intelligence through the eyes of a company lawyer

18.11.2021

Het Instituut voor bedrijfsjuristen organiseert op **donderdag 18 november** zijn 32e **Dag van de bedrijfsjurist met als thema 'Artificiële intelligentie door de ogen van de bedrijfsjurist'**. We bestuderen het concept van artificiële intelligentie, de concrete impact ervan op het leven van ondernemingen, op de verschillende rechtsdomeinen en op ons beroep - met oog ook voor de maatschappelijke en ethische aspecten.

Wij bieden u **een rijk gevuld programma vol inzichten, evoluties en trends gebracht door experten** en doorspekt met praktijkvoorbeelden van onze bedrijfsjuristen. **Vincent Van Quickenborne, Minister van Justitie**, sluit de studiedag af met een voordracht over de digitale transformatie van justitie.

Dit evenement is bovendien **een mooie gelegenheid om elkaar opnieuw te ontmoeten in een prachtige setting voor een netwerkmoment met bezoek aan de Koninklijke musea voor Schone Kunsten van België**.

U kan het programma en bijkomende informatie raadplegen op onze website (www.ibj.be).
Inschrijven kan door een mail te sturen naar julie.drouguet@ibj.be.

L'Institut des juristes d'entreprise organise **le jeudi 18 novembre** à sa 32e **Journée du juriste d'entreprise ayant pour thème "L'intelligence artificielle à travers les yeux des juristes d'entreprise"**. Cette rencontre sera consacrée à l'intelligence artificielle, vue à travers les yeux des juristes d'entreprise. Nous nous intéresserons au concept d'intelligence artificielle, son impact concret sur la vie des entreprises, sur les différentes branches du droit et sur notre profession - sans oublier les aspects sociétaux qui y sont liés.

Ce programme a pour ambition d'élargir vos horizons au départ d'un thème résolument tourné vers l'avenir. Il nous formera aux dernières évolutions juridiques et nous apportera des conseils pour notre pratique quotidienne.

Des experts renommés vous offriront de nombreux éclairages et un aperçu des dernières tendances tandis que des juristes d'entreprise nous partageront des exemples pratiques. **Vincent Van Quickenborne, Ministre de la Justice**, clôturera la journée d'étude par une allocution sur la transition vers le numérique au sein de la Justice.

Cet événement sera aussi l'occasion de se revoir dans le cadre magnifique des Musées Royaux des Beaux-Arts de Belgique, avec des moments de networking et la possibilité d'une visite du musée.

Vous retrouverez le programme complet et toutes les informations pratiques sur notre site internet (www.ije.be).
Pour vous inscrire, envoyez un e-mail à julie.drouguet@ije.be.

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» **ACOLAD.**

As partner of CEPANI, Acolad. will be delighted to assist you with all your legal translations, incl. with exotic languages.

The request below, which was recently addressed to Acolad. by an arbitration practitioner, illustrates the kind of services they offer.

> *I am Counsel for a party to an ICC arbitration proceeding (the language of the proceedings is English), which Hearing will take place virtually from 18 to 21 October 2021. To this purpose, I would kindly ask your availability and estimates to carry out the service of court reporting at the Hearing.*
>
> *The Hearing will take place on the Zoom platform, for a daily duration of maximum 8 hours.*
>
> *We would need **(i)** to receive the transcripts at the end of each Hearing's day; and **(ii)** live real time transcriptions to the two Parties (Claimant and Respondent) and to the Arbitral Tribunal (three Arbitrators plus the Secretary to the Arbitral Tribunal).*

Please don't hesitate to contact Acolad. with any questions or requests at brussels@hltrad.com